

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Jeffrey	Team: Squad #8	CCRB Case #: 202002659	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 04/11/2020 6:23 PM, Saturday, 04/11/2020 6:35 PM	Location of Incident: Intersection of East 151st Street and Park Avenue	Precinct: 40	18 Mo. SOL 10/11/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 04/12/2020 12:15 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 04/12/2020 12:15 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Greaige	13811	960616	PSA 7
2. POM Victor Carrasquillo	16720	963904	PSA 7
3. POM Carlos Gomez	14919	955954	PSA 7
4. POM Shawn Moynihan	03202	953147	PSA 7
5. SGT Wilmer Marquez	03687	954099	PSA 7
6. Kelvis Rodriguez		964252	

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joseph Canale	10524	960317	PSA 7
2. LSA Eric Dym	00000	933762	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez stopped § 87(2)(b) and § 87(2)(b)	
B.POM Shawn Moynihan	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Shawn Moynihan stopped § 87(2)(b) and § 87(2)(b)	
C.POM Victor Carrasquillo	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo stopped § 87(2)(b) and § 87(2)(b)	
D.POM Victor Carrasquillo	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
E.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)	
F.POM Victor Carrasquillo	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)	
G.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)	
H.POM Victor Carrasquillo	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)	
I.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)	
J.POM Victor Carrasquillo	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)	
K.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)	
L.POM Shawn Moynihan	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Shawn Moynihan searched the vehicle in which § 87(2)(b) was an occupant.	
M.POM Brian Greaige	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Brian Greaige searched the vehicle in which § 87(2)(b) was an occupant.	
N.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched the vehicle in which § 87(2)(b) was an occupant.	
O.POM Brian Greaige	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Brian Greaige seized § 87(2)(b)'s property.	
P.SGT Wilmer Marquez	Abuse: At the intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez seized § 87(2)(b)'s property.	
Q.POM Carlos Gomez	Discourtesy: At the PSA 7 stationhouse, Police Officer Carlos Gomez spoke discourteously to § 87(2)(b)	
R. Kelvis Rodriguez	Force: At the PSA 7 stationhouse, Police Officer Carlos Gomez used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
S.POM Brian Greaige	Force: At the PSA 7 stationhouse, Police Officer Brian Greaige used physical force against § 87(2)(b)	
T.POM Brian Greaige	Force: Police Officer Brian Greaige used physical force against § 87(2)(b)	
U.POM Carlos Gomez	Force: Carlos Gomez used physical force against § 87(2)(b)	
V.POM Brian Greaige	Force: At the PSA 7 stationhouse, Police Officer Brian Greaige used physical force against § 87(2)(b)	
W.POM Brian Greaige	Force: At the PSA 7 stationhouse, officers restricted § 87(2)(b)'s breathing.	
X.POM Brian Greaige	Discourtesy: At the PSA 7 stationhouse, Police Officer Brian Greaige spoke discourteously to § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		
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## Case Summary

On April 12, 2020, § 87(2)(b) filed this complaint with the CCRB's call processing system.

On April 11, 2020, at approximately 6:23 PM, § 87(2)(b) was walking up Park Avenue to meet his friends, § 87(2)(b) and § 87(2)(b) who were waiting in a car that § 87(2)(b) had rented, parked near the intersection of East 151<sup>st</sup> Street and Park Avenue in Queens.

As § 87(2)(b) arrived at the car, he saw PO Victor Carrasquillo, PO Shawn Moynihan, and Sgt. Wilmer Marquez of PSA 7. It is unclear whether the officers arrived at the vehicle before, or consecutively with § 87(2)(b). The officers stopped § 87(2)(b) and § 87(2)(b) **Allegations A-C: Abuse of Authority, § 87(2)(g)**).

PO Carrasquillo searched § 87(2)(b) and then had § 87(2)(b) and § 87(2)(b) exit the vehicle. PO Carrasquillo proceeded to search each of the three men (**Allegations D-K: Abuse of Authority, § 87(2)(g)**). At this point PO Brian Greaike and PO Joseph Canale of PSA 7 arrived on scene. PO Greaike began searching the vehicle that the men were in (**Allegation L-N: Abuse of Authority, § 87(2)(g)**). PO Greaike decided that he could not finish conducting a full search of the vehicle on scene and instead brought the vehicle back to the stationhouse where he could finish searching its interior (**Allegation O and P: Abuse of Authority, § 87(2)(g)**).

After the officers arrived back at the PSA 7 Stationhouse at approximately 6:35 PM, § 87(2)(b) and § 87(2)(b) walked into the rear parking lot which is a restricted area for NYPD personnel only. PO Carlos Gomez of PSA 7 allegedly told the two men to, "Get the fuck out," (**Allegation Q: Discourtesy, § 87(2)(g)**). When the two men did not leave the restricted area, officers approached to arrest them. PO Kelvis Rodriguez of PSA 7 allegedly grabbed § 87(2)(b) and threw him onto the hood of a parked car before handcuffing him (**Allegation R: Force, § 87(2)(g)**). PO Greaike wrapped his arms around § 87(2)(b) lifted him up and then brought him down onto the ground and handcuffed him (**Allegation S: Force, Exonerated**). After § 87(2)(b) was handcuffed PO Greaike allegedly kneed him seven to nine times in his side (**Allegation T: Force, § 87(2)(g)**). PO Gomez allegedly put his knee on § 87(2)(b)'s face (**Allegation U: Force, § 87(2)(g)**). PO Greaike then allegedly lifted § 87(2)(b) up off the ground by pulling on his handcuffs (**Allegation V: Force, § 87(2)(g)**). Once § 87(2)(b) was standing, PO Greaike allegedly covered his face with his hood and bent him over into an angled position, restricting § 87(2)(b)'s ability to breathe (**Allegation W: Force, § 87(2)(g)**). When § 87(2)(b) claimed that he could not breathe PO Greaike allegedly stated, "Shut the fuck up," (**Allegation X: Discourtesy, § 87(2)(g)**).

§ 87(4-b) § 87(2)(g)

The investigation received BWC video of the car stop from PO Carrasquillo, PO Greaike, and PO Canale, and video of the incident at the PSA 7 stationhouse from PO Gomez (Board Review 01 and 02). The investigation also received cell-phone footage from § 87(2)(b) recorded at the PSA 7 Stationhouse (Board Review 03 and 04).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez stopped § 87(2)(b) and § 87(2)(b)**

**Allegation (B) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Shawn Moynihan stopped § 87(2)(b) and § 87(2)(b)**

**Allegation (C) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo stopped § 87(2)(b) and § 87(2)(b)**

**Allegation (D) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)**

**Allegation (E) At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)**

**Allegation (F) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)**

**Allegation (G) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)**

**Allegation (H) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)**

**Allegation (I) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)**

**Allegation (J) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Victor Carrasquillo searched § 87(2)(b)**

**Allegation (K) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched § 87(2)(b)**

**Allegation (L) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Shawn Moynihan searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (M) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Brian Greige searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (N) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez searched the vehicle in which § 87(2)(b) was an occupant.**

According to § 87(2)(b) his friends were waiting for him in a white Rolls Royce which he was renting (Board Review 05). As § 87(2)(b) approached the car, which was double parked, he observed plainclothes officers pass by in an unmarked dark blue or black Chevrolet Impala. The officers reached the intersection of East 150<sup>th</sup> Street parked in the middle of the road and then reversed from the corner up the block. PO Carrasquillo, PO Moynihan, and Sgt. Marquez exited their vehicle. The officers then approached § 87(2)(b)'s vehicle at the same time as § 87(2)(b)

§ 87(2)(b) asked the officers what they wanted and stated that the Rolls Royce was his vehicle. One of the officers, whom the investigation has identified as PO Carrasquillo told § 87(2)(b) to place his hands on the car, § 87(2)(b) complied and then the officer entered all of the pockets of his jeans, as well as the pockets of his hooded sweatshirt. The officer then opened up and put his hands inside of § 87(2)(b)'s fanny pack, which he wore to his side. Officers told § 87(2)(b) and § 87(2)(b) to exit the car and then searched them as well, although § 87(2)(b) did not know which officers conducted the searches.

The officer that searched § 87(2)(b) proceeded to search the vehicle, beginning on the front passenger side. § 87(2)(b) could not say if other officers assisted in searching the vehicle and did not know where else the officer searched because he was occupied talking with officers at the trunk of the vehicle. During the search of § 87(2)(b)'s rented vehicle, approximately one minute into the incident, additional officers arrived in unmarked vehicles. § 87(2)(b) stated that at the time of the incident neither him nor any of the men in the vehicle had drank any alcohol or smoked any marijuana. § 87(2)(b) stated that there was no odor of marijuana.

The investigation did not receive statements from § 87(2)(b) or § 87(2)(b) as § 87(2)(b) stated they were uninterested in participating in the investigation and told him not to provide their contact information (Board review 23).

According to PO Carrasquillo he was with PO Moynihan on patrol when he observed § 87(2)(b)'s car double parked, the officers then approached the car solely for this reason (Board Review 06). As he approached PO Carrasquillo smelled a strong odor of burnt marijuana emanating from the vehicle.

PO Carrasquillo has received formal training in identifying the odor of marijuana at the police academy, as well as during street-level narcotics enforcement (SNEU) training. He has conducted or assisted in numerous arrests and summonses involving the odor of marijuana during his three and a half years as a member of service. PO Carrasquillo was unable to provide an exact estimate in this regard but stated that he has conducted more than ten.

There were multiple individuals inside the vehicle, including § 87(2)(b). PO Carrasquillo did not recall how many individuals were inside. The officers asked the driver and other occupants to step out of the vehicle. The driver of the vehicle admitted to being in possession of a small amount of marijuana. PO Carrasquillo observed small marijuana roach-clips inside the vehicle. PO Carrasquillo frisked each of these civilians for to make sure they did not have any knives or firearms. PO Carrasquillo felt the outer layer of each civilian's clothing during the frisks. PO Carrasquillo did not remember if he felt anything that resembled contraband or a weapon during the frisks. PO Carrasquillo did not enter any pockets during the frisks. After a couple minutes, while the driver was being frisked for safety, additional officers arrived on scene, including PO Carrasquillo's supervisor, Sgt. Marquez. PO Carrasquillo could not recall the identity of any other officer on scene. The civilians were asked to step to the back of the vehicle as PO Carrasquillo prepared to issue the driver of the vehicle a summons. PO Carrasquillo did not recall the name of the driver of the vehicle; however, the investigation knows him to be § 87(2)(b).

According to PO Moynihan he was on routine patrol with PO Carrasquillo and Sgt. Marquez when he observed a white Rolls Royce double parked and idling on Park Avenue, occupied by four or five individuals (Board Review 07). PO Moynihan approached the passenger side and smelled the odor of marijuana; he could not recall whether he spoke to the other officers about this. PO Moynihan also observed marijuana in the back of the car as well as the front. PO Moynihan could not recall what form this marijuana was in. PO Moynihan could not recall if the windows of the Rolls Royce were rolled down.

The officers asked the passengers to get out of the vehicle one at a time, which they did willingly. PO Moynihan then began searching some of reachable areas of the vehicle and found marijuana. PO Moynihan could not recall which other officers assisted in searching the car. PO Moynihan stated that the officers did not finish searching the vehicle because another male civilian, § 87(2)(b) who was not in the vehicle approached from the rear. When § 87(2)(b) approached, he

threw a container of food he was holding down.

PO Moynihan could not recall if § 87(2)(b) was frisked or searched during the incident. The individual who approached the car was wearing an orange hoodie and later came to the back lot of the precinct stationhouse.

At least one of the men, § 87(2)(b) who was sitting in the car was brought into custody for unlawful possession of marijuana.

According to PO Greaige, he was with PO Canale when they received a call to aid PO Moynihan and PO Carrasquillo with a car stop (Board Review 08). When PO Greaige and PO Canale arrived, there was between four and seven people standing outside of the stopped vehicle. PO Greaige did not see any of the civilians when they were in the car or when they were getting out. PO Greiage asked PO Moynihan and PO Carrasquillo what the car stop was for. After being told it was for marijuana, PO Greaige asked who was found with marijuana on them. PO Moynihan and PO Carrasquillo told PO Greaige that there was marijuana found on the driver and one of the passengers, as well as in the car itself. PO Greaige could not recall the names of the two individuals who were found with marijuana.

PO Greaige searched the stopped the men who were inside the vehicle and found unsmoked marijuana and rolling papers. PO Greaige could not recall where in the car this was found. PO Greaige stated that it was because of the marijuana found in the car that all its occupants were searched. PO Greaige could not recall if he was on scene for the initial search of the civilians. PO Greaige could not recall if he frisked or searched anyone.

Sgt. Marquez could not recall which officers he was riding with on April 11, 2020, but that he was present when § 87(2)(b)'s car was initially stopped (Board Review). Sgt. Marquez could not recall what the initial stop was for or how many civilians there were in the car. Sgt. Marquez stated that there were multiple civilians at the stop, but he could not recall if they were all in the car when it was initially stopped. Sgt. Marquez could not recall if any of the civilians were searched at the stop or if the vehicle itself was searched at the stop. Sgt. Marquez stated that he recalled one individual being arrested but could not recall why. Sgt. Marquez could not recall if the civilians who were not arrested did or said anything while at the car stop. Sgt. Marquez could not recall why the car was taken back to the stationhouse. Sgt. Marque could not recall if anything was found on any of the civilians, or if he smelled marijuana. Sgt. Marquez did not recall seeing marijuana in the car. Sgt. Marquez stated that the officers on his team may have taken their own initiative to search the stopped car.

According to *Title 34 Chapter 4 of the Rules of the City of New York §4-08 Parking, Stopping, Standing*, sub-section (f) General no standing zones (standing and parking prohibited in specified places) (1) Double Parking, no person shall stand or park a vehicle on the roadway side of a vehicle stopped, standing, or parked at the curb (Board Review 10).

In *People v Chestnut*, 43 AD2d 260 [3d Dept 1974] the court ruled that the smell of marijuana with nothing more is sufficient to give officers probable cause to search a vehicle and its occupants (Board Review 11).

§ 87(2)(g)

§ 87(2)(g)

**Allegation (O) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Police Officer Brian Greage seized § 87(2)(b)'s property.**

**Allegation (P) Abuse of Authority: At the Intersection of East 151st Street and Park Avenue in the Bronx, Sergeant Wilmer Marquez seized § 87(2)(b)'s property.**

During § 87(2)(b)'s interview he stated that additional officers arrived on scene and one of them entered § 87(2)(b)'s vehicle and proceeded to drive it off (Board Review 05). The officers also handcuffed § 87(2)(b). § 87(2)(b) could not say who did this and described this part of the incident as happening "very fast," and saying that the officers moved in a rapid fashion back to their vehicles.

PO Carrasquillo stated that the civilians were asked to step to the back of the vehicle as PO Carrasquillo prepared to issue the driver of the vehicle a summons (Board Review 06). PO Carrasquillo did not recall the name of the driver of the vehicle, but the investigation identified him as § 87(2)(b). § 87(2)(b) began "causing a scene" by cursing and yelling at a high tone. § 87(2)(b)'s fists were balled up by his waist, and he puffed out his chest and stiffened up his body as if he were assuming a fighting stance. § 87(2)(b) did not turn his body at an angle and raise his fists when he assumed the fighting stance. PO Carrasquillo stated during the interview that, as someone who grew up in the Bronx, this was enough to make him feel unsafe. § 87(2)(b) was not doing anything else to "cause a scene" at this point.

When the officers took out handcuffs to arrest § 87(2)(b) for possession of marijuana, § 87(2)(b) was told to step back, but instead repeatedly approached PO Carrasquillo and PO Moynihan. PO Carrasquillo did not recall how many civilians were in the vicinity. PO Carrasquillo did not recall if anything else was happening when he told § 87(2)(b) to step back. This caused PO Carrasquillo to feel unsafe. As a result, PO Carrasquillo decided to issue § 87(2)(b) a summons at the precinct stationhouse. There were no other reasons for why he made this decision. There was no time for the officers to determine the owner of the Rolls Royce, and PO Carrasquillo assumed that the driver of the vehicle was in charge of it. PO Carrasquillo did not recall any indications that the driver, § 87(2)(b) was not the owner of the vehicle.

PO Carrasquillo drove back to the precinct stationhouse with the driver of the Rolls Royce, while PO Greage drove the Rolls Royce back to the stationhouse for safekeeping.

PO Moynihan stated that when § 87(2)(b) approached the car, he threw a container of food he was holding down (Board Review 07). § 87(2)(b) began yelling and arguing with the officers. § 87(2)(b) appeared to be tensing his upper body and was moving his hands around in the air. PO Moynihan could not recall how close § 87(2)(b) got to the officers or which officers he spoke to. At least one of the men who was sitting in the car was brought into custody for unlawful possession of marijuana and the car was brought back to the command. PO Moynihan stated that the officers decided to bring the Rolls Royce to the stationhouse so they could finish thoroughly searching it without § 87(2)(b) interfering.

§ 87(2)(g) PO Greage stated that the officers were trying to explain to the civilians that this block is corridor between two rival gangs, and that a recent shooting happened there, so they were patrolling it more heavily (Board Review



08). Also, that a lot of these gangs do music videos, so they rent expensive cars, which is why the officers took notice of them driving around in a Rolls Royce.

The civilians were not listening to the officers' explanations and appeared agitated since they were pacing back and forth, going into the middle of the street, and walking close to the officers. Being undermanned and nervous the civilians may interfere, the officers decided to bring the vehicle and the two individuals who were found with marijuana on them back to the precinct, so that the vehicle could be more thoroughly searched, and the individuals could be issued summonses. It was at this point that the officers made the decision to handcuff the two individuals found with marijuana on them. PO Greaige did not recall the names of these two individuals.

Sgt. Marquez could not recall why the car was taken back to the stationhouse but stated that it would have been his decision to seize it (Board Review 09).

BWC video recorded by PO Carrasquillo captures at 02:45 minutes PO Carrasquillo asking a civilian, "You said it was just weed that you had on you?" The man's response is not audible (Board Review 01 and 02). At 03:39 minutes PO Carrasquillo pats down the driver after asking him to step out of his vehicle.

According to Patrol Guide Procedure 218-19 Invoicing Vehicles/Property as Arrest/Investigatory Evidence or for Forfeiture Proceedings or to Determine True Owner, a vehicle can be seized by arresting officers if "Investigation of vehicle by any unit other than the Property Clerk is required." Furthermore, officers are told to, "Direct an occupied vehicle be taken into custody if true owner cannot be determined and immediate arrest is not warranted" (Board Review 12).

§ 87(2)(g)

**Allegation (Q) Discourtesy: At the PSA 7 stationhouse, Police Officer Carlos Gomez spoke discourteously to § 87(2)(b)**

**Allegation (R) Force: At the PSA 7 stationhouse, Police Officer Carlos Gomez used physical force against § 87(2)(b)**

**Allegation (S) Force: At the PSA 7 stationhouse, Police Officer Brian Greaige used physical force against § 87(2)(b)**

**Allegation (T) Force: Police Officer Brian Greaige used physical force against § 87(2)(b)**

**Allegation (U) Force: Carlos Gomez used physical force against § 87(2)(b)**

**Allegation (V) Force: At the PSA 7 stationhouse, Police Officer Brian Greaige used physical force against § 87(2)(b)**

**Allegation (W) Force: At the PSA 7 stationhouse, officers restricted § 87(2)(b)'s breathing.**

**Allegation (X) Discourtesy: At the PSA 7 stationhouse, Police Officer Brian Greaige spoke discourteously to § 87(2)(b)**

According to § 87(2)(b) he and § 87(2)(b) followed the officers to the PSA 7 stationhouse (Board Review 05). When they arrived Sgt. Marquez, PO Carrasquillo and PO Moynihan were still sitting in their vehicles. § 87(2)(b) and § 87(2)(b) entered the rear parking lot and began approaching the stationhouse entrance. An unidentified officer told the two men to go back and enter through the front. While § 87(2)(b) and § 87(2)(b) were complying with the officer's

order eight to fourteen officers began running out of the precinct towards them. The officers were telling § 87(2)(b) and § 87(2)(b) to leave the back lot. An officer, whom the investigation has identified as PO Rodriguez, shoved § 87(2)(b) by placing his hand on the center of his chest, § 87(2)(b) grabbed § 87(2)(b) to pull him out of the lot. PO Rodriguez then yanked § 87(2)(b) away from § 87(2)(b) causing § 87(2)(b) to drop his phone. At this point § 87(2)(b) was a step away from being outside of the parking lot, another officer, whom the investigation has identified as PO Greaige, put his left arm around the left side of § 87(2)(b)'s neck, put his right arm under § 87(2)(b)'s right arm, joined his hands together, lifted § 87(2)(b) high in the air and threw him down on the ground. § 87(2)(b) reoriented his body in the air so he would not land on his neck, instead landing on his shoulder. § 87(2)(b) knew he was imminently going to be handcuffed and rolled over and put his hands behind his back. PO Greaige proceeded to knee § 87(2)(b) in his side seven to nine times, while another officer, whom the investigation has identified as PO Gomez, put his knee on § 87(2)(b)'s face. § 87(2)(b) tried not to move his body while this was happening. § 87(2)(b) was left with bruises to his ribs and elbows, as well as pain to his shoulder.

After he was handcuffed, PO Greaige pulled § 87(2)(b) up by his handcuffs. § 87(2)(b) tried to mitigate this by standing up while he was lifted. PO Greaige then pulled § 87(2)(b)'s hoodie over his head and bent his body "fully" forward, causing § 87(2)(b) difficulty breathing because he was winded. § 87(2)(b) complained that he could not breathe, and PO Greaige replied, "Shut the fuck up." § 87(2)(b) was then placed in a holding cell along with § 87(2)(b) and § 87(2)(b). After two or three hours, § 87(2)(b) and § 87(2)(b) were released with summonses for § 87(2)(b) while § 87(2)(b) was released with a summons for § 87(2)(b).

Once at the precinct, PO Carrasquillo observed § 87(2)(b) enter the stationhouse parking lot on foot through the "employees only" gated area (Board Review 06). PO Carrasquillo did not recall if anyone was with § 87(2)(b). There are signs over the entrance indicating that only officers are allowed to enter here. PO Carrasquillo observed this from the far end of the parking lot and was initially preoccupied with § 87(2)(b). Numerous officers approached § 87(2)(b) and arrested him for § 87(2)(b). § 87(2)(b) tried to flee from the officers and was arrested right by the gate demarcating the private parking lot and the sidewalk. PO Carrasquillo saw the commotion and went over to see what was happening. PO Carrasquillo assisted the officers in making the arrest by grabbing § 87(2)(b)'s hands and placing them behind his back. PO Carrasquillo did not see any officers pushing § 87(2)(b) or any other civilians. PO Carrasquillo did not recall seeing an officer lift up § 87(2)(b) by wrapping one arm under § 87(2)(b)'s arm and another over § 87(2)(b)'s neck and shoulder and then bring him to the ground. PO Carrasquillo did not see an officer knee § 87(2)(b) in his side. PO Carrasquillo did not see an officer grab the hood of § 87(2)(b)'s sweater and pull § 87(2)(b)'s upper body down so that his body formed the shape of an L. PO Carrasquillo did not recall officers needing to use any force to apprehend § 87(2)(b) aside from placing his arms behind his back.

According to PO Greaige, when he and the other officers arrived at the precinct, § 87(2)(b) and § 87(2)(b) both of whom were present at the car stop, came into the stationhouse's back lot yelling that they wanted their car back (Board Review 08). The two men walked past fences with multiple signs posted on them stating that this is a restricted area for NYPD personnel only. Multiple officers told the two men that they could not be in this area and would be arrested, but the two men ignored them and persisted further into the restricted area while yelling. PO Greaige did not recall the length of time between the two men being told to leave by the officers and the officers deciding to arrest them, but that it was fast because it is dangerous to have civilians in the restricted area and these two men in particular were already acting irate during the earlier car stop.

PO Greaige and approximately five to eight other officers moved in to arrest § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) for § 87(2)(b) PO Greaige dealt directly with § 87(2)(b) § 87(2)(b) was tensing his muscles and squeezing his hands in fists. PO Greaige went to grab § 87(2)(b) who then pulled away and tried to pull his hands away. PO Greaige then grabbed § 87(2)(b) wrapping his arms around him in a “bear hug” and picked him up so his feet were slightly off the ground and placed him down, so he was perpendicular to the ground. Once on the ground § 87(2)(b) continued to tense and prevent his arms from being brought to his back. PO Greaige was assisted by other officers in handcuffing § 87(2)(b) but he could not recall by how many. PO Greaige did not recall ever using any hand strikes, foot strikes, or kneeing § 87(2)(b) Throughout the process of handcuffing § 87(2)(b) PO Greaige kept telling him that he was under arrest and to give him his hands.

PO Greaige could not remember if he ever pulled on § 87(2)(b)'s handcuffs when lifting him up off the ground. PO Greaige could not recall if § 87(2)(b) ever complained of discomfort when being walked into the stationhouse or of not being able to breathe. PO Greaige stated that he did not tell § 87(2)(b) to “Shut the fuck up,” and did not recall using any profanity. Once § 87(2)(b) was placed in a holding cell PO Greaige asked him if he needed medical attention and he said that he did not.

PO Greaige was shown a BWC video recorded by PO Gomez from the beginning to 01:22 minutes PO Greaige stated that when officers are escorting someone, they often walk with their arms up under theirs, this can be uncomfortable and could have caused § 87(2)(b) to be bent forward. PO Greaige stated that in the video he moves § 87(2)(b)'s hood so that it could help provide a slight barrier to block § 87(2)(b)'s spit since he was yelling. PO Greaige stated that he did not cover § 87(2)(b)'s face with the hood.

According to Lt. Dym, he was working an administrative job at the stationhouse and happened to be near the back lot when § 87(2)(b) and § 87(2)(b) entered (Board Review 13). One of the two men got as far as the door to the back entrance of the stationhouse. The two men were confronted by several officers and directed to leave the premises. Lt. Dym could not recall exactly what the officers said only that they interacted with the individuals and told them that they were in a restricted area. There are also signs warning people that it is a restricted area. The individuals became verbally combative and were posturing their bodies in a way that appeared as though they were preparing to initiate a confrontation. Lt. Dym could not recall exactly what the two individuals were saying or doing only that they were refusing to leave and that it ended up being necessary to arrest them.

One of the individuals was taken to the ground, however Lt. Dym did not recall how the individual was taken to the ground. Lt. Dym did not know how the individual's body was situated when he was taken to the ground. Lt. Dym himself did not use and did not hear any other officers use any profanity at any point during the incident. Lt. Dym did not see any officers knee either of the individuals in the side. Lt. Dym did not observe any officers grabbing or tugging on either individuals' handcuffs. Lt. Dym did not recall if he issued any orders during this interaction. Lt. Dym stated that having the individuals in the back lot is dangerous because it is where officers are transporting prisoners into the stationhouse and where many officers take their breaks, meaning they do not have their firearms for protection. Lt. Dym stated that if someone enters the restricted area they can be arrested and charged with trespassing.

Cellphone video provided by § 87(2)(b) labeled, “Video 2” depicts at the beginning of the video § 87(2)(b) and § 87(2)(b) entering the back lot of the stationhouse (Board Review 03 and 04). At 00:06 seconds a sign on the fence clearly states, “Do Not Enter Authorized Personnel Only,” seconds later § 87(2)(b) can be heard cursing and saying that they are going to get their car back

as he and § 87(2)(b) walk past the sign into the back lot. The back lot does not appear to have any gate preventing pedestrians or cars from entering. At 00:17 seconds a plainclothes officer in a back car tells the two men that they need to go to the front door of the stationhouse. § 87(2)(b) responds that they are not going to go to the front and continues to walk towards the back entrance of the stationhouse. At 00:21 seconds an officer tells § 87(2)(b) and § 87(2)(b) to “Get the fuck out.” Multiple officers begin pushing § 87(2)(b) and § 87(2)(b) away from the stationhouse and out of the lot. The phone is then dropped and picked up by PO Gomez. At 00:49 seconds § 87(2)(b) can be seen lying on the ground, PO Gomez appears to be kneeling on § 87(2)(b)'s shoulder. PO Greaige does not appear to knee § 87(2)(b) however there are moments when he is out of view of the camera. When Sgt. Marquez was played this video, he identified the officer who stated, “Get the fuck out,” as belonging to PO Gomez (Board Review 09). When PO Moynihan, PO Greaige, PO Canale, and Lt. Dym were asked to identify the voice they all responded that they did not recognize it (Board Review 07, 08, 13, and 14).

Cellphone video provided by § 87(2)(b) labeled, “Video 3” captures at 00:02 seconds § 87(2)(b) being slammed by an officer onto the hood of a parked car (Board Review). When Sgt. Marquez was played this video, he identified the officer who slammed § 87(2)(b) as PO Rodriguez (Board Review 09). When PO Moynihan, PO Greaige, PO Canale, and Lt. Dym were asked to identify the officer in the video they stated that they could not determine who it was (Board Review 07, 08, 13, and 14).

BWC video recorded by PO Gomez shows at 00:33 minutes that § 87(2)(b) appears to be running out of the back lot away from officers, at 00:40 minutes PO Greaige appears to pick § 87(2)(b) up and bring him to the ground (Board Review 01 and 02). Once § 87(2)(b) is on the ground PO Greaige and PO Gomez appear to kneel on him while they handcuff him. Neither officer is shown kneeling § 87(2)(b) however there are moments when their legs are out of view of the BWC. At 01:13 minutes § 87(2)(b) can be seen being lifted up by officers. The officers are shown to be lifting him up by his arms and are not pulling on his handcuffs. At 01:18 minutes § 87(2)(b) can be seen bent over in an ‘L’ shape while he is escorted towards the stationhouse. PO Greaige lifts § 87(2)(b)'s hood so that it is on his head, it does not appear to cover his face. § 87(2)(b) states, “I can’t breathe,” to which PO Greaige responds, “Yes you can.”

The investigation was unable to interview PO Gomez nor PO Rodriguez as they have retired from the NYPD (Board Review 15).

According to Patrol Guide Procedure 221-01 when a member of service utilizes force they should, “use only the reasonable force necessary to gain control or custody of a subject.” This procedure further states, “In determining whether the use of force is reasonable, members of the service should consider the following: the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject’s violent history, if known, presence of hostile crowd or agitators, subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence ( Board Review 16).

§ 87(2)(g)

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(4-b) § 87(2)(g) [Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 24).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 24).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 24).
- § 87(2)(b) has been party to one other CCRB complaint and has been named as a victim in one allegation (Board Review 24)
  - § 87(2)(b)
- PO Victor Carrasquillo has been a member of service for four and has been a subject in 4 CCRB complaints and four allegations, none of which were substantiated (Board Review 20).
- PO Brian Greaige has been a member of service for five years and has been a subject in six CCRB complaints and twenty-four allegations, of which one was substantiated (Board Review 20).:
  - **201905840** involved a substantiated allegation of physical force against PO Greaige. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
- PO Shawn Moynihan has been a member of service for nine years and has been a subject in sixteen CCRB complaints and fifty-two allegations, of which four were substantiated (Board Review 20).:
  - **201806669** involved substantiated allegations of property damaged, threat to damage/seize property, and discourtesy against PO Moynihan. The Board recommended Command Discipline B and the NYPD imposed Command Discipline B.
  - **201903141** involved a substantiated allegation of discourtesy against PO Moynihan. The Board recommended Command Level Instructions and the NYPD imposed Command Level Instructions.
- Sgt. Wilmer Marquez has been a member of service for eight years and has been a subject in four CCRB complaints and eleven allegations, of which one was substantiated (Board Review 20).:
  - **201905840** involved a substantiated allegation of refusal to process a civilian complaint against Sgt. Marquez. The Board recommended Formalized Training and the NYPD imposed Command Level Instructions.

- This complaint was not suitable for mediation.
- As of February 09, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 21).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
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[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]

Investigator: John Jeffrey Inv. John Jeffrey 07/23/2021  
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo      IM Ethan De Angelo      7/26/2021  
Signature      Print Title & Name      Date

Reviewer: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

